IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3819 OF 2006

Vishnu Haribhau Chavan ..Petitioner.

Vs.

Pandharinath Babanrao Shankarrao Gaikwad,
(deceased) through his surviving legal heirs
1A) Smt. Pushpa Atul Gaikwad & anr. ..Respondents.

....

Mr. S.A. Bhagwat for the Petitioner.

CORAM: DR. D.Y. CHANDRACHUD, J.

14th June, 2006.

P.C. :

The Trial Court passed a decree for eviction on the ground of arrears of rent. The judgment has been confirmed in appeal. In the course of his cross examination the tenant made the following admissions :

> "It is true that Plff had sent me a notice vide exh. 24 and I received it on 20.11.98. I did not send the arrears of rent to the Plaintiff as claimed by him vide Exh. 24 within one month after receipt of the same. The contents about the arrears of rent and the amount of rent deposited by me shown in exh. 24 are correct. I am not disputing the monthly rent of the suit premises as Rs. 12.24. I did not deposit the arrears of rent in this suit. It is not true that I did not comply Exh. 24 till today. I did not file the

> receipts in this suit to show that I deposited the arrears of rent in this suit upto May 2001."

In this view of the matter, both the Learned Trial Judge, in paragraph 6 of the judgment and the First Appellate Court in the order impugned in these proceedings were justified in coming to the conclusion that a decree for eviction was liable to be passed on the ground of default. There is no merit in the Petition which is accordingly dismissed. However, time to vacate the premises is granted to the Petitioner until 31st March, 2007, subject to the filing of the usual undertaking within a period of two weeks from today. It would be open to the Respondents to move this Court to modify the time thus granted in the event that they are advised to do so.